

Amendments to the Drawings

The attached replacement sheets of drawings include changes to Figs. 2a, 2b, 6a, 6b and 8, where a surface in Figure 2a has been labeled with reference number "9," a wire labeled with reference number "13" in Figure 2b has been renumbered with reference number "30," and reference numbers were added to figures 6a, 6b and 8. The replacement sheets are intended to replace Figs. 2a, 2b, 6a, 6b and 8 currently before the Examiner.

Attachment: Three Replacement Sheets

Remarks

This is a Response to the Official Action dated March 2, 2005.

Claims 1-40 are currently pending in the Application.

Allowable Claims

The Applicant acknowledges with gratitude the Examiner's indication of allowability as to Claims 1-11, 15-37 and 40.

Specification

This response amends paragraph at page 6, line 23 to page 7, line 6 by referring to reference number 13 as the "bottom or back side." Support for this amendment may be found on page 10, line 16 of the specification.

This response amends paragraph at page 9, line 23 to page 10, line 3 by amending wires' reference number "13" to "30" as the reference number "13" is used to identify "bottom or back side."

This response amends paragraph at page 10, lines 15-17 by referring to reference number 13 as the "bottom or back side." Support for this amendment may be found on page 6, line 26 of the specification.

This response amends paragraph at page 12, line 26 to page 13, line 15 by replacing reference number "41" with reference number "42" and by replacing reference number "42" with reference number "41." Support for this amendment may be found in Figure 7 of the specification.

Drawings

This response amends Figure 2a by adding reference number "9." Support for this amendment may be found on page 7, line 1 of the specification.

This response amends Figure 2b by replacing the top reference number “13” with reference number “30.”

This response amends Figures 6a, 6b and 8 by adding reference numbers. Support for this amendment may be found on pages 11-14 of the specification.

The Examiner asserts that reference number “41” from Figure 7 is not mentioned in the disclosure. Applicant respectfully notes that page 12 of the specification has been amended above to identify reference number “41” shown in Figure 7.

Claims 1-40

This response cancels Claims 12-14 without prejudice.

This response amends Claim 28 by amending the phrase “RF strip line” to recite “RF line.”

Double Patenting Rejection

The Examiner provisionally rejected Claims 12-14 for claiming the same invention as that of Claims 12-14 of copending application No. 10/436,753. Applicant respectfully notes that Claims 12-14 have been canceled without prejudice and respectfully requests that the double patenting rejection be withdrawn.

35 U.S.C. §102(b) Rejection

Claim 12 stands rejected under 35 U.S.C. §102(b) as being anticipated by Gothard (U.S. 2002/0036586). Applicant respectfully notes that Claim 12 have been canceled without prejudice and respectfully requests that the rejection be withdrawn.

35 U.S.C. §103(a) Rejection

Claims 38-39 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Gothard and further in view of Ito (U.S. Patent No. 6,337,668).

Applicant submits that the Examiner has **not** established a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Applicant notes:

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure" (emphases added) *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant submits that a *prima facie* case of obviousness has not been established for the reasons set forth below.

Applicant submits that the Examiner has failed to show that Gothard and Ito teach each and every element as claimed in the present application.

Applicant submits that the Examiner has not shown that Gothard discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 38 of the present application:

"each MEMS switch being disposed spaced equidistantly from the centerline of said RF port"

It should be noted that Gothard identifies reference number "910" as both a switch and an inductive element. See paragraph 54, line 3 and paragraph 55, line 1. In order to address the Examiner's rejections Applicant will consider reference number "910" as referring to a switch, however it should be noted that Applicant does not concede at any point in this response that reference number "910" is a

switch and not an inductive element.

The Examiner asserts that switches recited in Claim 38 are disclosed by Gothard's switches shown in Figures 9. See page 5 of the Official Action. Applicant respectfully traverses the Examiner's assertion.

In Figure 9, Gothard discloses switches "905 and 910" disposed around a reference number "920." Although switches "905 and 910" are disposed around the reference number "920," they are not disposed "equidistantly from the centerline of said RF port" as recited in Claim 38. As can be clearly seen from the Figure 9 of Gothard, switches "910" are disposed farther from the reference number "920" than switches "905." How can switches "910" disposed farther away from the reference number "920" disclose "each MEMS switch being disposed spaced equidistantly from the centerline of said RF port" (emphasis added) as recited in Claim 15.

Because Gothard does not teach, disclose or suggest "each MEMS switch being disposed spaced equidistantly from the centerline of said RF port" as recited in Claim 38, Claim 38 is patentable over Gothard. Claim 39, at least based on its dependency on Claim 38, is also patentable over Gothard.

Conclusion

In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

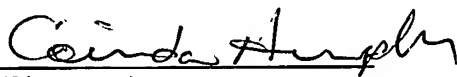
I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

May 25, 2005

(Date of Deposit)

Corinda Humphrey

(Name of Person Signing)



(Signature)

May 25, 2005

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Respectfully submitted,



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Encl: Replacement Sheets (3 pages)